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June 21, 2005

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110

Re: Bay State Gas Company, D.T.E 05-27

Dear Ms. Cottrell:

Enclosed is the Opposition of Bay State Gas Company to the Attorney General's Motion to Compel.

Very truly yours,

Robert L. Dewees, Jr.

RLD/aa  
Enclosure

cc: Caroline M. Bulger, Hearing Officer (1 copy)  
A. John Sullivan, Rates and Revenue Requirements Division (7 copies)  
Andreas Thanos, Assistant Director, Gas Division (1 copy)  
Alexander J. Cochis, Assistant Attorney General (4 copies)  
Paul R. Osborne, Assistant Director, Rates and Revenue Requirements Division (1 copy)  
Service List

**THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Petition of Bay State Gas Company )  
For Approval of Revised Tariffs )  
And Other Rate Modifications )  

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D.T.E. 05-27

**OPPOSITION OF BAY STATE GAS COMPANY  
TO ATTORNEY GENERAL'S MOTION TO COMPEL**

**I. INTRODUCTION**

On June 15, 2005, the Attorney General of the Commonwealth filed a motion to compel a response to a single information request, AG-2-18, which was propounded by the Attorney General in a set of information requests that were filed with the Department on May 16, 2005.

Bay State Gas Company ("Bay State") opposes the Attorney General's Motion to Compel because it is unwarranted.

**II. THE MOTION INVOLVES A DISCOVERY REQUEST FOR WHICH THERE IS NO RESPONSIVE INFORMATION**

The Attorney General propounded the following request, AG-2-18, and the Company filed its response on June 6:

Produce copies of all reports, memorandums and analysis related to any external causes of corrosion of the mains and services (including but not limited to proximity to other pipes, new materials or sources of stray electricity) that are the subject of the Company's proposed replacement program.

Bay State responded and referred to the report on corrosion leak data prepared for Bay State by the national firm, R.J. Rudden, which was filed in response to AG-2-16. After reasonable search of its files, Bay State is not aware of any additional "report," "memorandum," or "analysis" prepared by Bay State or a third party "related to external causes of corrosion" for

the infrastructure to be replaced under the on-going Steel Infrastructure Replacement program (or “SIR”).

In many of the responses to information requests Bay State has filed thus far, it has identified for the Attorney General operations data and maps concerning leaks in the Company’s distribution system that are located in Bay State division operations centers. The Company has also discussed the availability of this data in telephone conferences with the Attorney General concerning discovery. For example, the Company has thousands of maps that delineate hundreds of miles of cathodically protected coated pipe, bare steel pipe, coated unprotected pipe, cast iron, wrought iron and plastic. It has voluminous test records for its cathodically protected mains. It has file cabinets of mains write-ups for various types of pipe, by city and street, throughout its service territories. It has many years worth of leak surveys and records to support its annual leak survey programs. It has hundreds of maps with leak survey information plotted on them. Some of this information is contained in computer databases, such as the WOMS and a compliance management database.<sup>1</sup>

However, as the Company has explained, this information does not constitute “reports, memorandums or analysis” that can be produced for the Attorney General in any practicable manner. Further, this material cannot be “identified” in the manner requested by the Attorney General’s information request instructions, which state that Company should “provide . . . the date on which [the document] was prepared, the subject matter and the titles, the names and the positions of each person who participated in the preparation of the document, the addressee and the custodian.”

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<sup>1</sup> Fifteen of the Company’s responses filed before June 6<sup>th</sup> identify the Company’s use of WOMS as a database, or Work Order Management System.

### **III. BAY STATE HAS PROVIDED THE ATTORNEY GENERAL WITH THE OPPORTUNITY TO INSPECT ALL OF BAY STATE'S LEAK SURVEY DATA AT EACH OF BAY STATE'S OPERATIONS CENTERS**

Bay State believes it has demonstrated good faith efforts in the discovery process with the Attorney General. Often, where no responsive information exists, Bay State provided the Attorney General an explanation of what was available in an effort to educate the Attorney General about the type of records maintained by the Company and inform his discovery. Over 22 days ago the Company offered to make available to the Attorney General, and his expert, all of its data sources wherever located and to provide him the opportunity to inspect all electronic and paper records as they exist in Bay State's files as well as Bay State's physical plant.

Bay State even provided sample copies of its leak survey maps for its smallest division, Lawrence, and provided examples of mains write-ups and repairs files from the Springfield and Brockton divisions for cathodically protected, bare and coated steel mains. It also queried its WOMS system for sample files. These materials have been provided to the Attorney General and will be filed formally in with the Department this week.

Accordingly, in light of Bay State's continuing offers to make its operational, maintenance, repair, corrosion and leak data at its operations centers available for inspection, the Department should deny the Attorney General's Motion.

### **IV. CONCLUSION**

For all the reasons set forth above, Bay State Gas Company respectfully requests that the

Department deny the Attorney General's Motion to Compel.

Respectfully submitted,

BAY STATE GAS COMPANY

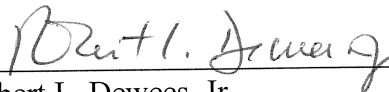
By its attorneys,



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and



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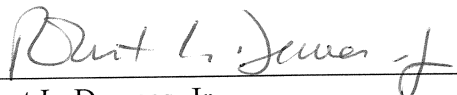
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Dated: June 21, 2005

# CERTIFICATION

I certify that I served today a copy of the attached Opposition of Bay State Gas Company to the Attorney General's Motion to Compel by hand delivery, first class mail, postage prepaid, or electronically on the Department of Telecommunications and Energy and all parties on the service list on file with the Secretary of the Department of Telecommunications and Energy for this proceeding.

Dated at Boston, Massachusetts this 21st day of June, 2005

  
Robert L. Dewees, Jr.